

Exhibit 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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)
CF 135 FLAT LLC, CF 135)
WEST MEMBERS LLC)
and THE CHETRIT GROUP, LLC,)
) Case No.
) 15-cv-05345-AJN
)
Interpleader Plaintiffs,)
)
-against-)
TRIADOU SPV S.A., CITY OF ALMATY,)
a foreign city, and BTA Bank,) AMENDED CROSS-
) CLAIMS
Interpleader Defendants.)
)
)
-----)
)
CITY OF ALMATY, KAZAKHSTAN)
and BTA BANK,)
)
Crossclaim Plaintiffs,)
)
)
-against-)
)
MUKHTAR ABLYAZOV,)
VIKTOR KHRAPUNOV,)
ILYAS KHRAPUNOV,)
TRIADOU SPV S.A.,)
and FBME BANK LTD.,)
)
Crossclaim Defendants.)
)
)
-----)

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION
of
MR. NICOLAS BOURG (DAY TWO)
On Tuesday, 12th September 2017

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2 A. Obviously not. If I were to
3 invoice this money for intermediaries, it would be
4 confidential. Or for reasons of confidentiality.

5 Q. Mr. Bourg, can you turn back to
6 Exhibit 2, please. That is your deed of
7 settlement with Mr. Foucher and BTA Bank; correct?

8 THE WITNESS: Okay.

9 Q. This document mentions Sherrards
10 Solicitors LLP, what is Sherrards?

11 MR. SKINNER: Where in the
12 document?

13 MR. HASSID: Almost everywhere, but
14 if you look at, say, point 2 and 3 at the very
15 top.

16 MR. SKINNER: Okay.

17 BY MR. HASSID:

18 Q. Who do they represent?

19 A. (Through the Interpreter) Laurent
20 Foucher and myself.

21 Q. Both of you?

22 A. Yes.

23 Q. If you can look further down that
24 first page under the "Whereas" clauses, there is a
25 section D. Do you see it?

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THE WITNESS: Mmm-hmm.

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Q. D says: "By this Deed, the Parties intend to replace the Release and Confidentiality Agreements as between the parties only, and to record further terms of agreement between the Parties including the way in which co-operation with BTA's Recovery Efforts will be provided by the Witnesses." Do you see that?

THE WITNESS: Mmm-hmm, yes.

Q. Do you understand that this deed replaces your obligations from the original release you had with Almaty and BTA in Kazakhstan, but only as to BTA?

A. (Through the Interpreter) well, you are the lawyer, you should know.

Q. I am asking your understanding, sir?

A. Well, yes, it is quite possible that it replaces the previous release. It is a legal formulation, after all.

Q. I think I see the confusion. My question was not clear. I am asking whether this deed applies specifically only to BTA, and the prior release is still in force as to Almaty and

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2 Kazakhstan?

3 THE INTERPRETER: I am sorry, you
4 will have to go back, it is very complicated.

5 BY MR. HASSID:

6 Q. I am asking whether this deed
7 replaces the prior release only as to BTA, while
8 the prior release remains in effect as to Almaty
9 and Kazakhstan?

10 A. (Through the Interpreter) Which
11 release are we talking about which has to be
12 replaced?

13 Q. Bourg Exhibit 1.

14 A. No, I don't think it is what we are
15 talking about. No, I don't think that one, at
16 least, number 1, is replaced by what we were
17 referring to before. I think what we are talking
18 about is the release of Mr. Foucher which is
19 replaced.

20 Q. That's not what this says, this
21 says "The parties", doesn't it?

22 A. Well, that is my interpretation
23 anyway.

24 Q. Okay. Can you turn to section 2.1,
25 which is the release and settlement section.

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2 Kevin Meyer is listed there as an agent or
3 representative of you, Mr. Foucher -- you and
4 Mr. Foucher; do you see that?

5 THE WITNESS: Mmm-hmm.

6 Q. Do you still consider him an agent
7 of yours?

8 MR. SKINNER: Objection.

9 A. (Through the Interpreter) No,
10 where does it say that he is an agent?

11 MR. HASSID: Let me rephrase that,
12 I may have jumped a step.

13 BY MR. HASSID:

14 Q. In the release and settlement it
15 says that this provision settles any and all
16 claims against Nicolas Bourg ----

17 THE INTERPRETER: I am sorry, could
18 you say exactly where it is?

19 MR. HASSID: Section 2.1.

20 THE WITNESS: Okay, I am going to
21 read it.

22 BY MR. HASSID:

23 Q. You are going to read it. When you
24 have read it let me know.

25 THE WITNESS: You can read it and I

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2 will follow you.

3 Q. Okay, that works too. I am going
4 to start in the middle because I want to just
5 focus on a portion, but it says: "Fully and
6 finally settles any and all claims..."

7 THE INTERPRETER: Wait, wait, wait.
8 Which?

9 MR. HASSID: The third line down,
10 end of it: "Fully and finally settles" ----

11 THE WITNESS: Okay.

12 Q. -- "Any and all claims against
13 Nicolas Bourg and/or Laurent Foucher, together
14 with their attorneys, agents and representatives,
15 (including, but not limited to)..." and there is a
16 bunch of entities listed, and Kevin Meyer is also
17 listed. So I think my first question was a bad
18 question. I will ask: Do you consider Mr. Meyer
19 an agent, a representative or a representative of
20 you or Mr. Foucher?

21 MR. SKINNER: Objection.

22 A. (Through the Interpreter) Neither
23 one nor the other. It is merely a qualification
24 which has been put in by the Sherrards lawyers
25 which we requested ----

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2 THE WITNESS: No, we didn't
3 request.

4 THE INTERPRETER: I am sorry.

5 A. (Through the Interpreter) -- which
6 has been put in by Sherrards.

7 MR. WOLF: Just be careful in your
8 answer, that you do not indicate any
9 communications that you had with Sherrards.

10 THE INTERPRETER: Let us begin
11 again.

12 MR. WOLF: I don't know if you are.

13 A. I never asked for the insertion of
14 the word "agent" or "representative". All we
15 asked was that Kevin Meyer should be included in
16 the release, and I presume, therefore, that the
17 words "agent/representative" is the work of the
18 lawyers.

19 BY MR. HASSID:

20 Q. Do you know if Mr. Meyer had to do
21 anything in exchange for being included in this
22 release?

23 A. (Through the Interpreter) No,
24 nothing. The only thing I think is, that he would
25 have had to do, was to respond to your contacting

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2 him, or your firm, to ask him to bear witness.

3 I know there was a request made, but I know

4 nothing precise about it, or who asked. All

5 I know is that he was contacted by a US firm of

6 lawyers to provide information.

7 Q. Mr. Bourg, can you please turn to
8 annex 1 of Exhibit 2. It begins -- let me know
9 when you are there.

10 THE WITNESS: I am there.

11 Q. Okay. So these are exempted
12 assets, or this is a description of exempted
13 assets under this deed of settlement; correct?

14 A. (Through the Interpreter) What
15 does exempted actually mean here?

16 THE WITNESS: I don't know the word
17 in English, "exempted", what does it mean?

18 A. (Through the Interpreter) In
19 French exempted means not included but these are
20 included. That is what I don't understand.

21 Q. Let me ask you this then. What do
22 you understand this annex represents?

23 A. This, to my way of thinking, is a
24 list of assets which have been financed by loans
25 from Khrapunov, and for Niel companies.

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THE WITNESS: Owned by Niel

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companies.

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MR. WOLF: Before you ask another

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question. (Pause).

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BY MR. HASSID:

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Q. Do you understand from this

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agreement and annex that, with respect to these

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assets, Niel, or you, or Mr. Foucher, or someone

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nominated by one of you will have some entitlement

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to recoveries in relation to these assets?

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A. (Through the Interpreter)

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I understand from this document there would be a

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distribution between the BTA Bank and the Niel

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companies of the assets listed here, but in no

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ways do I benefit in excess of that. For the

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moment, we have -- Niel owns 100% of these assets.

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So what I understand is that if BTA and the Kazak

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authorities are replacing the present nominees and

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the owner of loans, then the official result will

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be 70% for them and 30% for Niel companies,

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exactly as was the understanding with Khrapunov.

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I am sorry, BTA and Kazak -- the Kazak authorities

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are going to convert the loan and it will come out

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to 70% and 30%. 70 to them -- exactly as planned

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2 with Ilyas Khrapunov originally.

3 Q. Are you talking about a particular
4 project, or are you talking about all of these
5 projects?

6 A. All of them.

7 Q. Let us look at project Bagama,
8 number 2 on the list. It identifies the location
9 of the project as Mali, Africa, and it says that
10 investment is a 12% interest, is owned by an
11 Ablyazov/Khrapunov entity as a result of a
12 €12 million investment. Do you see that?

13 A. Yes, I see that.

14 Q. Under that is says: "Laurent
15 Foucher and Nicolas Bourg, through Financiere de
16 Jatheini are entitled to one third of all sums
17 recovered by or on behalf of the Kazakhstan
18 Government Authorities or BTA in relation to this
19 asset." Do you see that?

20 THE WITNESS: Mmm-hmm.

21 Q. So do you see that?

22 A. (Through the Interpreter) I can
23 see that, but it is an error, it is a mistake.

24 Q. It is an error? What should be?

25 A. In fact the 12% interest is owned

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2 by a Niel entity and not the Ablyazov/Khrapunov.

3 Q. But the indication here is that you
4 and Mr. Foucher are entitled to one third of this,
5 not 30%, one third is a little more, all right?

6 THE WITNESS: Okay.

7 Q. I am asking is that true?

8 THE INTERPRETER: (To the Witness)
9 Do you agree with that?

10 A. (Through the Interpreter) Yes.

11 Q. Is that statement at least
12 accurate?

13 A. Yes.

14 Q. So it says you are entitled to one
15 third of all sums recovered by or on behalf of the
16 Kazakhstan governmental authorities or BTA in
17 relation to this asset?

18 A. Yes.

19 Q. In what context do you understand
20 they are talking about recovery?

21 A. The property of the funds, loan,
22 would be declared their property and not
23 Khrapunov's.

24 Q. So, if Almaty and BTA are
25 successful here in proving that the Khrapunovs'

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2 and Ablyazov's funds actually belong to Kazakhstan
3 or Almaty or BTA, will you be entitled to one
4 third of the value of the Bagama project?

5 MR. SKINNER: Objection.

6 A. That is what it says, but the,
7 whether it is Kazakhstan or Khrapunov the deal
8 remains the same for us, for Niel.

9 BY MR. HASSID:

10 Q. I think I understand what you are
11 saying. What I am trying to ask is, where do they
12 have to prove this for you -- for Niel to get the
13 one third of the project value?

14 THE INTERPRETER: When you say
15 where, you mean?

16 MR. HASSID: In what proceeding?
17 In this proceeding?

18 A. (Through the Interpreter) I think
19 these are complicated and very significant
20 international dealings, procedures, which are
21 going to, in my view, last many years, so legal
22 action will be taken in many different
23 jurisdictions -- have been taken, and will be, and
24 there will be any proof that the Ablyazov funds
25 have been obtained illegally by Ablyazov, and

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2 consequently the property involved belonged to the
3 Kazak authorities and BTA.

4 BY MR. HASSID:

5 Q. That is your expectation of what
6 will happen over time; is that accurate?

7 A. No, not really my expectations, but
8 what the Kazak authorities and BTA are going to be
9 involved in.

10 THE WITNESS: Are involved.

11 A. (Through the Interpreter) Are
12 involved.

13 Q. Thank you. Mr. Bourg, looking at
14 number 6 in the same annex, there is project name
15 Leo Telecom; do you see that -- not annex 6, in
16 the same one we were looking at, point 6, it is
17 the last project. It mentions Vimplecom there and
18 says: "Current legal efforts seeking return of
19 USD\$ 50,000,000 being pursued by Niel Natural
20 Resources." What is the Vimplecom case?

21 A. In 2013, I think it was, Niel
22 Natural Resources won a tender, a bid, organised
23 by Vimplecom company to buy two telecom operators,
24 one in Burundi and the other in the Central
25 African republic. Niel Natural Resources put up

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2 100 -- I mean a half of the transaction cost,
3 which is \$50 million, and despite its efforts
4 could not -- and despite its efforts could not pay
5 up in time the balance.

6 Q. So were you done with your answer,
7 sir?

8 THE WITNESS: No.

9 Q. Okay.

10 A. (Through the Interpreter) So
11 Vimplecom claims that half of this is a down
12 payment and is paid and so, therefore, it has
13 never been reimbursed, and Niel maintains this is
14 not a down payment but a significant sum towards
15 the actual settlement of the transaction, and that
16 we should be able to provide the remaining moneys,
17 that we were prepared to put up the remainder, but
18 they did not give us the time to do that, and so
19 they sold the asset to a competitor. And it was
20 in that context that we undertook arbitration --
21 we filed a suit with arbitration to recover the 50
22 million.

23 Q. Where is that arbitration brought?

24 A. London.

25 Q. Which Niel, is it Niel Natural

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2 Resources that brought the arbitration.

3 THE WITNESS: Oui.

4 Q. Any other Niel firm involved?

5 THE WITNESS: No.

6 A. (Through the Interpreter) No. No,
7 there is a Niel Telecom, but it is bankrupt so it
8 can't do anything.

9 Q. And when was the arbitration
10 brought?

11 A. It is still being drawn up, it
12 hasn't happened yet.

13 Q. It has not been filed yet?

14 A. No.

15 Q. Do you have an understanding of
16 what Total Recovery Solutions is?

17 A. No, I don't know what it is, but it
18 is BTA which put this company in the contract.

19 Q. BTA put Total Recovery Solutions
20 Limited into the Telecel option agreement, you are
21 saying?

22 THE WITNESS: Oui.

23 A. (Through the Interpreter) Yes.

24 Q. But you do not actually know who
25 owns Total Recovery Solutions?

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2 A. I suppose it is BTA, but no, I
3 don't really know.

4 Q. Do you know if the Republic of
5 Kazakhstan or Almaty are involved?

6 MR. SKINNER: Objection.

7 A. No, I don't know that.

8 BY MR. HASSID:

9 Q. Do you know if Mr. Sztyk, after
10 your recorded meeting with him, ended up engaging
11 or speaking with Arcanum?

12 MR. SKINNER: Objection.

13 A. No.

14 BY MR. HASSID:

15 Q. Have you spoken with him since that
16 time?

17 A. Yes.

18 Q. But you didn't ask him what
19 happened?

20 MR. SKINNER: Objection.

21 A. No, but as you said before, I mean
22 I continued to deal with him over a shared car, so
23 we had a couple of details to sort out. And
24 I think I asked him whether he had been contacted
25 by Arcanum, but he did not give me a precise reply